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October 24, 2018

U.S. Department of Justice
Suite 11050
1425 New York Ave., N.W.
Washington, DC 20530

Re: Freedom of Information Act Request

To whom it may concern:

You are hereby requested to make available for review and copying all files, records and other documents in your possessions that refer, reflect or relate to perfluorinated compounds ("PFC"), perfluorooctanoic acid ("PFOA"), perfluorooctane sulfonate ("PFOS"), or related compounds¹ actually or potentially found, released, or present in Georgia or Alabama or any waterways therein.

This request includes, but is not limited to, all documents, notes, correspondence, administrative records, and memoranda evidencing tests, reports, or investigations that any state or federal governments took part in or were made of, and all communication and correspondence in whatever tangible medium dealing with the abovementioned chemicals, particularly those involving Board of Water, Light & Sinking Fund Commissioners of the City of Dalton d/b/a Dalton Utilities, 3M Company, Apricot International, Inc., ArrowStar, LLC, Beaulieu Group LLC, Beaulieu of America, Inc., Collins & Aikman Floor covering International, Inc., Daltonian Flooring, Inc., Dependable Rug Mills, Inc., Dorsett Industries, Inc., Dystar, L.P., ECMH, LLC d/b/a Clayton Miller Hospitality Carpets, Emerald Carpets, Inc., Fortune Contract, Inc., Harcros Chemical, Inc., Home Carpet Industries LLC, Indian Summer Carpet Mills, Inc., Industrial Chemicals, Inc., J&J Industries, Inc., Kaleen Rugs Inc., Lexmark Carpet Mills Inc., Lyle Industries, Inc., MFG Chemical, Inc., Mohawk Carpet LLC, Mohawk Group, Inc., Mohawk Industries, Inc., NPC South, Inc., Oriental Weavers USA, Inc., S & S Mills, Inc., Savannah Mills Group, LLC, Shaw Industries, Inc., Tandus Centiva Inc.,

¹ This includes, but is not limited to, PFCA, precursor PFCA, PFOA, PFAS, PFOS, precursor PFOS, FOSA and PFHS, PFHA, POSE, PFNA, PFDA, PFUnD A, PFPeA, PFOSA, and PFBS.

Tandus Centiva US LLC, The Dixie Group, Inc., Tiarco Chemical Company, Inc., and Victor Carpet Mills, Inc.

We respectfully request that all fees be waived or drastically reduced. These requests are made on behalf of two public non-profit waterworks entities that are placed in a precarious financial position due to very high level of PFCs and related compounds in their water.² They simply do not have the means to treat this water, and this request is primarily aimed at attempting to identify who placed these harmful chemicals in the water and ask that they pay a fair share of the cost to have drinkable water provided to these communities. It is very likely that these entities will have to install filtration systems capable of removing PFCs and related compounds, and it is unclear where this money will come from if the polluters are not identified. This request is not made for the purposes of profit, and these utilities are legally not even allowed to operate for profit.

Further, this request is made for the benefit of the public's interest. Much of this request concerns government operations and activities because these chemicals have been identified and tracked for the EPA for a long time, and many of these companies have been involved in regulatory activities. This is an area of great concern for much of northeastern Alabama and these materials would greatly contribute to the understanding of the EPA and other governmental agencies activities regarding these chemicals and their presence in water. Given that there has been a significant amount of press coverage and that the litigation will be public record, these disclosures will also assist the public understanding of this subject, as will the public's understanding of the government's activities in this area.

These public entities are merely attempting to ensure the residents they serve are able to have drinking water that is safe. There is no potential profit incentive here, and the only persons with any tangible interests in this information are the members of the public affected by these chemicals. Thus, the public's interest greatly outweighs any other interests involved here. The EPA is well aware of the dangers posed by these chemicals, and these communities are not affluent. We respectfully request that you waive any related costs associated with this request.

We will necessarily be digesting and disseminating this information in a manner that will be easily understood by laypersons (i.e., the court, the jury, and the media). Our

² See, for instance: https://www.al.com/news/anniston-gadsden/index.ssf/2016/09/gadsden_water_works_files_laws.html; <https://whnt.com/2016/09/20/tests-show-drinking-water-contamination-above-epa-advisory-level-in-gadsden-area/>; https://www.al.com/news/index.ssf/2017/06/alabama_has_second-most_sites.html.

firm has extensive experience litigating environmental matters,³ so this task will be carried out effectively and efficiently. We will use this information to establish which companies placed these chemicals in our drinking water and determine how much of the resulting expenses they should bear.

The requesters plan to make these documents available to the public at the University of Alabama Bounds Law Library. As this is a facility open to the general public, many people will thereby have access to the information contained in the materials which are the subject of this request. Further, as the library is a Federal Repository, its Congressionally certified status as a resource to foster openness in government, as well as its role in facilitating the teaching and research occurring at the University, will be well served. Legislative history suggests the importance Congress placed on this means of making information available to the public. Government agencies "should recognize the vital contributions that libraries and depositories of public records make to the public's understanding of the operations of government. All federal agencies should implement the intended favorable treatment of these organizations under the FOIA." 135 Cong. Rec. S8466 (daily ed. July 20, 1989) (debate colloquy, Senator Leahy responding to Senator Kerry's questions about State Dept. policy of denying fee waivers to libraries).

The FOIA was designed to provide citizens a broad right to access government records. The primary purpose of FOIA is to "open agency action to the light of public scrutiny," emphasizing the public's "right to be informed about what their government is up to." *U.S. Dep't of Justice v. Reporters Comm. For Freedom of Press*, 489 U.S. 749, 773-74 (1989) (internal quotation and citations omitted). FOIA's fee waiver provision requires that "[d]ocuments shall be furnished without any charge or at a [reduced] charge," if the standard is satisfied by the request. 5 U.S.C. § 552(a)(4)(A)(iii). FOIA's fee waiver requirement is "liberally construed." *Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1310 (D.C. Cir. 2003); *Forest Guardians v. U.S. Dept. of Interior*, 416 F.3d 1173, 1178 (10th Cir. 2005).

To determine whether a request is in the public interest, the EPA must consider the four following factors: (1) whether the subject of the requested records concerns "the operations or activities of the Federal government," (2) whether the disclosure is "likely to contribute" to an understanding of government operations or activities, (3) whether

³ See *Tolbert, et. al v. Monsanto Co. et al.*, No. 2:01-CV-1407-KOB (N.D. Ala. 2001); *Abernathy v. Monsanto Co.*, No. CV-2001-832 (Ala. Cir. Ct. 2002); *In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico on Apr. 20, 2010*, No. 2:10-md-02179-CJB-JCW (E.D. La. 2010); *In re Tennessee Valley Authority Ash Spill Litigation*, 805 F. Supp. 2d 468 (E.D. Tenn. 2011); *Action Marine, Inc. v. Continental Carbon, Inc.*, No. 3:01-CV-944-MEF (M.D. Ala. 2006); *Rowe, et. al v. E.I. du Pont de Nemours & Co.*, No. 1:06-CV-01810-RMB-AMD (D.N.J. 2006).

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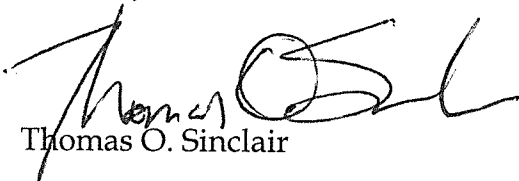
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the disclosure "will contribute to public understanding" of a reasonably-broad audience of persons interested in the subject, and (4) whether the disclosure is likely to contribute "significantly" to public understanding of government operations or activities. 22 C.F.R. § 171.16(a)(1)(i) – (iv). As shown above, requestors satisfy each of these factors.

If this request is denied in whole or in part, we ask that you cite in writing the specific statutory exemption upon which you have relied, as required by law. We also ask that you release all separate portions of otherwise exempt material. Please waive any costs associated with this request, or first inform us about such costs as required by law. We would be more than happy to receive documents electronically to avoid unnecessary costs.

Further, to the extent any responsive documents are already publicly available, please specifically identify where those materials may be obtained. We do not wish to duplicate costs or efforts where unnecessary. Thank you for your cooperation with this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas O. Sinclair", with a large, stylized circular flourish at the end.

TOS/cf